

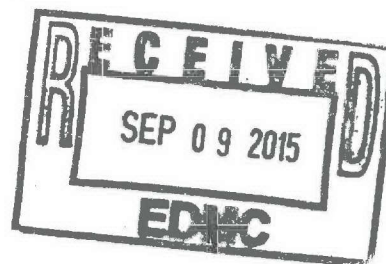


UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
HANFORD/INL PROJECT OFFICE
309 Bradley Boulevard, Suite 115
Richland, Washington 99352

1231002
[0080165H]

October 14, 2014

Mr. Ray J. Corey
Assistant Manager
Roger Quintero
Project Manager
U.S. Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352



Re: DISAPPROVAL OF PROPOSED NEW DATE FOR MILESTONE M-016-175, "BEGIN SLUDGE REMOVAL FROM 105-KW FUEL STORAGE BASIN," AND NOTICE OF FAILURE TO COMPLY WITH MILESTONE M-016-175 AND THE ASSESSMENT OF STIPULATED PENALTIES

Dear Mr. Corey and Quintero:

The purpose of this letter is to respond to your request to modify Hanford Federal Facility Agreement and Consent Order (the Tri-Party Agreement or TPA) milestone M-016-175. This response is provided in accordance with Section 12.3.3 of the TPA Attachment 2 (Action Plan).

EPA is disapproving your request for the following reasons, any one of which is cause for disapproval:

- The request failed to provide the following as required by Action Plan Section 12.3.2:
 - The request did not identify length of extension sought;
 - The request did not identify any related timetable or schedule that would be affected; and
 - The request did not identify any of the circumstances specified in TPA Paragraph 120 as good cause.

The Department of Energy (DOE) request letter attributes the cause for the needed extension to insufficient funding in prior years. However, the request is not timely as it was not submitted until well after the prior budget appropriations were made, and in fact it was not made until September 30, 2014, which is the date the work required by the milestone was due to have been completed.

EPA has extended milestones for this work a number of times in the past providing DOE with ample time to fund and commence sludge removal. The following KW Basin milestones, which are now part of the M-16 milestone series, have all been extended, in some cases more than once: M-34-00T08, M-34-00A, M-34-10, M-34-30, and M-34-31. The original 2002 date by which sludge removal was to be completed has been extended 13 years.

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DOE-RLCC

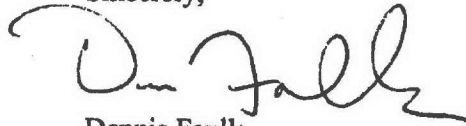
DOE has not demonstrated insufficient availability of appropriated funds. Between 2009 and 2011 DOE RL received over 1.6 billion dollars in ARRA funds and was a year ahead of schedule on Sludge Treatment Project Phase 1 Removal of Containerized Sludge, yet sludge removal has not started. Also, DOE has not attempted to reach agreement with EPA on adjustments in work scope or milestones as would be required by TPA Paragraph 149 G if appropriations differed from funding levels needed to comply with milestone M-16-175. EPA has consistently made clear to DOE EPA's expectation that sludge removal work be funded and proceed, including in letters to DOE dated April 7, 2009 and September 10, 2012. EPA has identified sludge removal as one of the highest Hanford cleanup priorities.

Pursuant to TPA Paragraph 59, DOE has 30 days to submit a written statement of dispute if DOE disputes EPA's disapproval of its change request and EPA and DOE fail to informally resolve the dispute.

In addition, EPA is notifying DOE that as of October 1, it has failed to comply with Milestone M-016-175 "BEGIN SLUDGE REMOVAL FROM 105-KW FUEL STORAGE BASIN," which is a term or condition of Part III of the TPA. DOE is therefore subject to stipulated penalties specified in TPA Paragraph 72 for each week and part thereof that DOE fails to meet the milestone. Given the significance of the violation, stipulated penalties are hereby being assessed in accordance with TPA Paragraphs 72 and 73 at the rate of \$5,000 for the first week (or part thereof) and \$10,000 for each additional week (or part thereof) beginning on October 1, 2014 and continuing until Milestone M-016-175 is met. As provided by TPA Paragraph 73, DOE has 15 days upon receipt of this notice to invoke dispute resolution on the question of whether the failure to comply with Milestone M-016-175 did in fact occur.

If you have any questions on this matter, please contact me at (509) 376-8631.

Sincerely,









Dennis Faulk
Program Manager, Hanford Project Office

Enclosure

cc:

J. A. Hedges, Ecology
K. Niles, ODOE
R. Jim, Yakama Nation
G. Bohnnee, Nez Perce
S. Harris, CTUIR

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|--|---|-----------------------------------|---|---|---------|---|---------------------|---|----------|---|----------------|--|--|--|
| Change Number M-16-14-02 | Federal Facility Agreement and Consent Order Change Control Form | Date September 26, 2014 | | | | | | | | | | | | |
| Originator R. J. Corey | | Phone (509) 376-0108 | | | | | | | | | | | | |
| Class of Change <input type="checkbox"/> I - Signatories <input checked="" type="checkbox"/> II - Executive Manager <input type="checkbox"/> III - Project Manager | | | | | | | | | | | | | | |
| Change Title Extend Milestone due date for interim TPA Milestone M-016-175. | | | | | | | | | | | | | | |
| Description/Justification of Change TPA Interim Milestone M-016-175, Begin Sludge Removal from 105-KW Fuel Storage Basin, is due September 30, 2014. Activities that support initiating sludge removal have been delayed due to Congressional funding levels for RL being below the President's Budget requests, impacts of the Fiscal Year (FY) 2013 Budget Control Act (sequestration), the FY 2014 Continuing Resolution, and continuing uncertainty regarding funding in FY 2015 and beyond. Final FY 2015 funding is not expected to be known until December 2015 at the earliest. Based on these impacts, RL is not in a position to responsibly propose a new milestone date. The due date for Milestone M-16-175, "Begin sludge removal from 105-KW Fuel Storage Basin," is requested to be changed to TBD. A new milestone date may be determined after a FY 2015 budget has been passed by Congress and subsequent discussion by EPA and RL on funding impacts and Hanford site priorities. <i>Description/Justification of Change continued on next page.</i> | | | | | | | | | | | | | | |
| Impact of Change This change will extend the due date for milestone M-016-175 to allow activities that support initiating of sludge removal from the 105-KW Fuel Storage Basin to be completed. | | | | | | | | | | | | | | |
| Affected Documents The Hanford Federal Facility Agreement and Consent Order (HFFACO), as amended, and Hanford Site internal planning management, and budget documents. | | | | | | | | | | | | | | |
| Approvals <table border="0"> <tr> <td>Ray Corey DOE</td> <td></td> <td>9/30/14</td> <td><input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved</td> </tr> <tr> <td>Dennis Faulk EPA</td> <td></td> <td>10/14/14</td> <td><input type="checkbox"/> Approved <input checked="" type="checkbox"/> Disapproved</td> </tr> <tr> <td>N/A Ecology</td> <td></td> <td></td> <td><input type="checkbox"/> Approved <input type="checkbox"/> Disapproved</td> </tr> </table> | | | Ray Corey DOE |  | 9/30/14 | <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved | Dennis Faulk EPA |  | 10/14/14 | <input type="checkbox"/> Approved <input checked="" type="checkbox"/> Disapproved | N/A Ecology | | | <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved |
| Ray Corey DOE |  | 9/30/14 | <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved | | | | | | | | | | | |
| Dennis Faulk EPA |  | 10/14/14 | <input type="checkbox"/> Approved <input checked="" type="checkbox"/> Disapproved | | | | | | | | | | | |
| N/A Ecology | | | <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved | | | | | | | | | | | |

Description/Justification of Change (continued)

Modifications are denoted by using ~~strikeout~~ to indicate text deletions and double underline to indicate text additions.

| Number | Milestone | Due Date |
|----------------------------------|---|-----------------------------------|
| M-016-175 Lead Agency: EPA | Begin sludge removal from 105-KW Fuel Storage Basin | 09/30/14 <u>TBD</u> |